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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/929,241	08/13/2001	Stephen F. Gass	SDT 305	SDT 305 8808	
27630 75	90 05/10/2005		EXAM	EXAMINER	
SD3, LLC 22409 S.W. NEWLAND ROAD WILSONVILLE, OR 97070			ASHLEY, BOYER DOLINGER		
			ART UNIT	PAPER NUMBER	
			3724		

DATE MAILED: 05/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

				Mp
	Applica	ation No.	Applicant(s)	
	09/929	9,241	GASS ET AL.	
Office Action Summary	Examir	ner	Art Unit	
		D. Ashley	3724	
The MAILING DATE of this comm Period for Reply	nunication appears on	the cover sheet v	vith the correspondence address	:
A SHORTENED STATUTORY PERIO THE MAILING DATE OF THIS COMM  - Extensions of time may be available under the provi- after SIX (6) MONTHS from the mailing date of this or the period for reply specified above is less than thing the period for reply is specified above, the maximum.  - Failure to reply within the set or extended period for Any reply received by the Office later than three more earned patent term adjustment. See 37 CFR 1.704(	UNICATION. sions of 37 CFR 1.136(a). In no communication. rty (30) days, a reply within the si rm statutory period will apply and reply will, by statute, cause the si oths after the mailing date of this	event, however, may a statutory minimum of th d will expire SIX (6) MC application to become A	reply be timely filed  irty (30) days will be considered timely.  NTHS from the mailing date of this communi  ABANDONED (35 U.S.C. § 133).	ication.
Status				
<ol> <li>Responsive to communication(s)</li> <li>This action is FINAL.</li> <li>Since this application is in conditional closed in accordance with the present the communication (s)</li> </ol>	2b)⊠ This action is tion for allowance exce	s non-final. ept for formal ma	tters, prosecution as to the meri	its is
Disposition of Claims				•
4) ⊠ Claim(s) <u>1-9,17 and 20-27</u> is/are 4a) Of the above claim(s) <u>10-14</u> , 5) □ Claim(s) is/are allowed. 6) ⊠ Claim(s) <u>1-9,17,20,21 and 27</u> is/ 7) □ Claim(s) is/are objected to re	<u>16,19 and 22-26</u> is/are are rejected. o.	withdrawn from	consideration.	·
Application Papers			·	
9) The specification is objected to b 10) The drawing(s) filed on 29 March Applicant may not request that any Replacement drawing sheet(s) inclu 11) The oath or declaration is objected	<u>a 2004</u> is/are: a)⊠ acc objection to the drawing(s ading the correction is req	s) be held in abeya Juired if the drawin	ance. See 37 CFR 1.85(a). g(s) is objected to. See 37 CFR 1.1	
Priority under 35 U.S.C. § 119				
12) Acknowledgment is made of a classification All b) Some * c) None of the prior of the prior Certified copies of the prior	of: prity documents have b prity documents have b pries of the priority docu pational Bureau (PCT F	peen received. Deen received in Iments have bee Rule 17.2(a)).	Application No n received in this National Stage	e
Attachment(s)  1)  Notice of References Cited (PTO-892)		4) ☐ Interview	Summary (PTO-413)	
<ul> <li>Notice of Preferences Great (176-32)</li> <li>Notice of Draftsperson's Patent Drawing Reviews</li> <li>Information Disclosure Statement(s) (PTO-144 Paper No(s)/Mail Date 2/27/05; 12/19/04.</li> </ul>		Paper No.	o(s)/Mail Date Informal Patent Application (PTO-152) De Continuation Sheet.	

Continuation of Attachment(s) 6). Other: IDS's - 9/6/04; 8/17/04; 4/25/04; 4/17/04; 2/12/04; 2/4/04; and 11/16/03.

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#### **DETAILED ACTION**

1. This office is in response to applicant's amendment filed 10/24/04, wherein claim 17 was amended; and claims 27 was added. It should be noted that the instant claims remain with incorrect identifiers, that is, claims 22-26 are currently withdrawn from examination and therefore, should not have the identifier "original". For the purposes of this office action claims 22-26 are being considered withdrawn. In light of the changes in the co-pending applications the double patenting rejections have be reviewed and updated below.

#### SPECIAL CIRCUMSTANCES OF THIS APPLICATION

Even if a copending application is listed on this instant application or other copending applications or patents and the material information is technically of record in one or more parent or copending applications, the unusually large number of applicant's cases in varying stages of the examination process might result in one or more parent applications not being readily available for review, or material information of record not being readily apparent. Moreover, applications, which may not have any direct relationship, as continuing applications, to other copending applications by the same assignee may not be readily apparent due to the unusually large number of applicant's cases.

Applicant should point out such material information to the examiner of the instant application if the criterion for materiality applies, and if the examination record provides applicant reason to believe such information has not been considered by the examiner. This should include a listing of all related cases whether previously filed, recently filed, currently being filed, or patented.

If, to the best of applicant's knowledge, applicant has no previous patent or copending application, which would meet the definition of "material," applicant is requested to make a statement of that fact of record.

Any parent application labeled as a CIP or Divisional is assumed to claim a patentably distinct invention from the claims of this application and therefore the issue of double patenting has not been considered and the rights to priority are limited to the common disclosed subject matter unless it is brought to the examiners attention that some claims are not distinct.

37 CFR 1.56. Duty to disclose information material to patentability.

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(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
  - (2) It refutes, or is inconsistent with, a position the applicant takes in:
  - (i) Opposing an argument of unpatentability relied on by the Office, or
  - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

### **Double Patenting**

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Glaims 1-8, 20-21 and claim 27 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of copending Application No. 09/929,227, U.S. Patent Application Publication 2002/0020271 in view of Lokey, U.S. Patent 3,785,230.

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Application '227 substantially claims the invention claimed by the instant application '241 including a moving blade, a detection system, and a brake mechanism even though different terminology is used for the same subject matter. In this case, application '227 lacks that specific language that the blade is rotatable as well as the brake pawl pivots into the blade. However, Lokey discloses that it is old and well known in the art to use rotatable saw blades with woodworking tools as well as to use brake pawls that pivots into the blade in order to positively and quickly stop the rotating blade before a user is injured. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to claim the combination of a rotating blade, detection system and a pivoting braking mechanism in order to positively and quickly stop the rotating blade before a user is injured.

As to claims 2-4, the modified claims of application '227 substantially claims the invention claimed by the instant application '241 except for the specific brake pawl material being either plastic, metal or aluminum. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a brake pawl made of metal or plastic or aluminum in order to provide an effective braking force against the rotating blade, because it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

As to claims 8 and 21, the modified claims of application '227 substantially claims the invention claimed by the instant application '241 except for the brake mechanism being self locking. However, Lokey discloses that it is old and well known in the art to

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use self-locking brake pawls for the purpose of ensuring braking of the blade. Figure 3 of Lokey discloses that the pawls rotate in the same direction as the rotation of the blade; therefore, further rotation of the blade causes the brake pawls to rotate into engagement with the blade thereby causing a binding effect between the brake and blade. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to claim the braking mechanism as a self locking type in order to further ensure positive braking and maintained stopping of the blade.

This is a <u>provisional</u> obviousness-type double patenting rejection.

4. Claim 9 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of copending Application No. 09/929,227, U.S. Patent Application Publication 2002/0020271.

The claims of application '227 substantially claims the invention as claimed by the instant application '241 including a cutting tool with teeth, a motor, a detection system, and a braking mechanism including an engagement member even though different terminology is used for the same subject matter. In this case, application '227 lacks the specific brake pawl material being formed of metal. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a brake pawl made of metal or any other material capable of creating sufficient friction between the blade and brake in order to provide an effective braking force against the rotating blade, because it has been held to be within the general skill of a

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worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

This is a <u>provisional</u> obviousness-type double patenting rejection.

5. Claims 1-8, 20-21, and 27 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of copending Application No. 10/215,929, U.S. Patent Application Publication 2002/0037651 in view of Lokey, U.S. Patent 3,785,230.

Application '929 substantially claims the invention claimed by the instant application '241 including a moving blade, a detection system, and a brake mechanism even though different terminology is used for the same subject matter. In this case, application '929 lacks that specific language that the brake pawl pivots into the blade. However, Lokey discloses that it is old and well known in the art to use rotatable saw blades with brake pawls that pivots into the blade in order to positively and quickly stop the rotating blade before a user is injured. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to claim the combination of a rotating blade, detection system and a pivoting braking mechanism in order to positively and quickly stop the rotating blade before a user is injured.

As to claims 2-4, the modified claims of application '929 substantially claims the invention claimed by the instant application '241 except for the specific brake pawl material being either plastic, metal or aluminum. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a brake pawl made of metal or plastic or aluminum in order to provide an effective braking force

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against the rotating blade, because it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

As to claims 8 and 21, the modified claims of application '929 substantially claims the invention claimed by the instant application '241 except for the brake mechanism being self locking. However, Lokey discloses that it is old and well known in the art to use self-locking brake pawls for the purpose of ensuring braking of the blade. Figure 3 of Lokey discloses that the pawls rotate in the same direction as the rotation of the blade; therefore, further rotation of the blade causes the brake pawls to rotate into engagement with the blade thereby causing a binding effect between the brake and blade. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to claim the braking mechanism as a self locking type in order to further ensure positive braking and maintained stopping of the blade.

This is a provisional obviousness-type double patenting rejection.

6. Claim 9 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of copending Application No. 10/215,929, U.S. Patent Application Publication 2002/0037651.

The claims of application '929 substantially claims the invention as claimed by the instant application '241 including a cutting tool with teeth, a motor, a detection system, and a braking mechanism including an engagement member even though different terminology is used for the same subject matter. In this case, application '929

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lacks the specific brake pawl material being formed of metal. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a brake pawl made of metal or any other material capable of creating sufficient friction between the blade and brake in order to provide an effective braking force against the rotating blade, because it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

This is a <u>provisional</u> obviousness-type double patenting rejection.

7. Claims 1-7, 9, 20, and 27 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of copending Application No. 10/785,361. Although the conflicting claims are not identical, they are not patentably distinct from each other because they encompass the same subject matter even though different terminology is used for the same subject matter.

In this case, application '361 substantially claims the invention as claimed by the instant application '241 including a rotating blade, a detection system, and a brake mechanism that pivots into the cutting edge of the blade.

As to claims 2-4 and 9, the modified claims of application '361 substantially claims the invention as claimed by the instant application '241 except for the specific brake pawl material being either plastic, metal or aluminum. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a brake pawl made of metal or plastic or aluminum in order to provide an

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effective braking force against the rotating blade, because it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

8. Claims 8 and 21 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of copending Application No. 10/785,361, U.S. Patent Application Publication 2002/0037651 in view of Lokey, U.S. Patent 3,785,230.

The modified claims of application '361 substantially claims the invention claimed by the instant application '241 except for the brake mechanism being self-locking.

However, Lokey discloses that it is old and well known in the art to use self-locking brake pawls for the purpose of ensuring braking of the blade. Figure 3 of Lokey discloses that the pawls rotate in the same direction as the rotation of the blade; therefore, further rotation of the blade causes the brake pawls to rotate into engagement with the blade thereby causing a binding effect between the brake and blade.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to claim the braking mechanism as a self locking type in order to further ensure positive braking and maintained stopping of the blade.

This is a <u>provisional</u> obviousness-type double patenting rejection.

# Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

## Claim Rejections - 35 USC § 103

- The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all 10. obviousness rejections set forth in this Office action:
  - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- Claims 1, 8, 20-21, and 27 are rejected under 35 U.S.C. 102(b) as anticipated by 11. Lokey, U.S. Patent 3,785,230, or, in the alternative, under 35 U.S.C. 103(a) as obvious over Lokey in view of Gaines, U.S. patent 5,052,255, or Harkness, U.S. Patent 4.090.345.

Lokey discloses the invention substantially as claimed, including for example, a rotatable blade (13) having one or more teeth (see Figure 2); a detection system (15/16/18/19/20) associated with the blade and capable of detecting a dangerous conditions; and a brake mechanism (10/21/29/23/25/24) capable of stopping the rotation of the blade if the dangerous condition is detected, wherein the blade mechanism includes at least one brake pawl (24) capable of pivoting in to the blade and the teeth of the blade depending upon the size of the blade.

In the alternative, even if it is argued that Lokey lacks a brake that pivots into the teeth of the blade. Lokey also discloses that it is old and well known in the art to use brake pawls (125) that are moved into engagement with the teeth of a blade for the purpose of positively stopping the blade quickly. Furthermore, Gaines and Harkness

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both discloses that it is old and well known in the art to use braking pawls that pivot into teeth-like rotating discs for the purpose of positively stopping the rotating of the cutting

tool. Therefore, it would have been obvious to one of ordinary skill in the art at the time

of the invention was made to have the pivoting braking pawls (24) of Lokey pivot into

the teeth of the blade in order to positively stop the blade quickly.

As to claims 8 and 21, the device of Lokey and the modified device of Lokey both disclose the invention substantially as claimed including the brake mechanism being self- locking. Figure 3 of Lokey discloses that the pawls rotate in the same direction as the rotation of the blade; therefore, further rotation of the blade causes the brake pawls to rotate into engagement with the blade thereby causing a binding effect between the brake and blade.

12. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lokey in view of Gaines or Harkness as applied to claims 1 above and further in view of the following.

The device of Lokey and the modified device of Lokey both disclose the invention substantially as claimed except for the specific brake pawl material being either plastic, metal or aluminum. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a brake pawl made of metal or plastic or aluminum in order to provide an effective braking force against the rotating blade, because it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

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13. Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lokey in view of Gaines or Harkness as applied to claim 1 above and further in view Baur, U.S. Patent 3,695,116.

The device of Lokey and the modified device of Lokey both disclose the invention substantially as claimed except for the spring for urging the brake into the teeth, a restraining mechanism for releasable holding the brake pawl spaced apart from the blade against the spring. Lokey and the modified device of Lokey disclose the use of electromagnetic/solenoid instead of a spring; however, there is disclose an engagement member of positioning the brake relative to the electromagnetic/solenoid. The electromagnetic/solenoid acts as a restraining mechanism for releasable holding the brake pawl spaced from the blade, wherein a mounting structure is spaced apart from the engagement member. See Figures 1-7.

Baur discloses that it is old and well known in the art to replace solenoids/electromagnetics with spring loaded actuators that are electrically responsive by tensioned wires (releasable restraining mechanism) for the purpose of providing fast acting, less expensive, and smaller devices that providing large mechanical forces. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use a spring for urging the brake into engagement with the teeth in order to provide a fast acting, less expensive, smaller actuator that facilitates efficiency of the operation as taught by Baur.

14. Claim 9 is rejected under 35 U.S.C. 103(a) as obvious over Lokey in view of Gaines or Harkness.

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Lokey discloses the invention substantially as claimed, including for example, a rotatable blade (13) having one or more teeth (see Figure 2); a detection system (15/16/18/19/20) associated with the blade and capable of detecting a dangerous conditions; and a brake mechanism (10/21/29/23/25/24) capable of stopping the rotation of the blade if the dangerous condition is detected, wherein the blade mechanism includes at least one brake pawl (125) capable of moving in to the teeth of the blade depending upon the size of the blade.

In the alternative, even if it is argued that Lokey lacks a brake that pivots into the teeth of the blade, Lokey also discloses that it is old and well known in the art to use brake pawls (125) that are moved into engagement with the teeth of a blade for the purpose of positively stopping the blade quickly. Furthermore, Gaines and Harkness both discloses that it is old and well known in the art to use braking pawls that pivot into teeth-like rotating discs for the purpose of positively stopping the rotating of the cutting tool. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to have the pivoting braking pawls (24) of Lokey pivot into the teeth of the blade in order to positively stop the blade quickly.

Lokey and the modified device of Lokey lacks the brake pawl engaging portion made /formed of metal. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a brake pawl made of metal or any other material capable of creating sufficient friction between the blade and brake in order to provide an effective braking force against the rotating blade, because it has

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been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

15. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lokey in view of Gaines or Harkness and DeWoody et al., U.S. Patent 4,560,033.

Lokey discloses the invention substantially as claimed, including for example, a rotatable blade (13) having one or more teeth (see Figure 2); a detection system (15/16/18/19/20) associated with the blade and capable of detecting a dangerous conditions; and a brake mechanism (10/21/29/23/25/24) capable of stopping the rotation of the blade if the dangerous condition is detected, wherein the blade mechanism includes at least one brake pawl (125) capable of moving in to the teeth of the blade depending upon the size of the blade.

In the alternative, even if it is argued that Lokey lacks a brake that pivots into the teeth of the blade, Lokey also discloses that it is old and well known in the art to use brake pawls (125) that are moved into engagement with the teeth of a blade for the purpose of positively stopping the blade quickly. Furthermore, Gaines and Harkness both discloses that it is old and well known in the art to use braking pawls that pivot into teeth-like rotating discs for the purpose of positively stopping the rotating of the cutting tool. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to have the pivoting braking pawls (24) of Lokey pivot into the teeth of the blade in order to positively stop the blade quickly.

Lokey and the modified device of Lokey lacks the brake pawl engaging portion made /formed of metal. However, it would have been obvious to one having ordinary

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skill in the art at the time the invention was made to use a brake pawl made of metal or any other material capable of creating sufficient friction between the blade and brake in order to provide an effective braking force against the rotating blade, because it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

The modified device of Lokey discloses the invention substantially as claimed except for the braking components having one or more ridges. However, DeWoody et al. discloses that it is old and well known in the art to use braking components with ridges (see Figure 4) for the purpose of facilitating braking by using a wedging effect. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to claim multiple braking components with one or more ridges in order to provide a quick braking of the blade by use of a wedging effect.

## Response to Arguments

16. Applicant's arguments with respect to the claims have been considered but are most in view of the new ground(s) of rejection.

### Response to Amendment

17. The Declaration under 37 CFR 1.132 filed 3/29/04 is insufficient to overcome the rejection of claims 1-8, 9, 17, and 20-27 based upon the rejection under 35 USC 103 with Lokey, Baur and Dewoody et al. as set forth in the last Office action because: The declaration fails to set forth facts regarding the instant claims, the declaration is not germane to the new grounds of rejection as well as the showing not being commensurate in scope with the claims. In this case, the declaration provides no nexus

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between the instant claims and the alleged evidence in the declaration is merely the opinion of the applicant.

### Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Boyer D. Ashley whose telephone number is 571-272-4502. The examiner can normally be reached on Monday-Thursday 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Boyer D. Ashley Primary Examiner Art Unit 3724

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BDA April 20, 2005 0/205

